

By: Kolkhorst, et al.

S.B. No. 1196

A BILL TO BE ENTITLED

AN ACT

relating to the declaration of a common nuisance involving a computer network or web address.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 125.001, Civil Practice and Remedies Code, is amended by adding Subdivisions (1-a) and (4) to read as follows:

(1-a) "Computer network" means the interconnection of two or more computers or computer systems by satellite, microwave, line, or other communication medium with the capability to transmit information between the computers.

(4) "Web address" means a website operating on the Internet.

SECTION 2. Section 125.0015, Civil Practice and Remedies Code, is amended by adding Subsections (c) and (d) to read as follows:

(c) A person operating a web address or computer network in connection with an activity described by Subsection (a)(3), (6), (7), (10), (11), (17), (18), (19), (20), (21), or (22) maintains a common nuisance.

(d) Subsection (c) does not apply to:

(1) a provider of remote computing services or electronic communication services to the public;

(2) a provider of an interactive computer service as

defined by 47 U.S.C. Section 230;

(3) an Internet service provider;

(4) a search engine operator;

(5) a browsing or hosting company;

(6) an operating system provider; or

(7) a device manufacturer.

SECTION 3. Subchapter A, Chapter 125, Civil Practice and Remedies Code, is amended by adding Section 125.0025 to read as follows:

Sec. 125.0025. SUIT TO DECLARE CERTAIN COMMON NUISANCES.

(a) A suit to declare that a person operating a web address or computer network is maintaining a common nuisance may be brought by an individual, by the attorney general, or by a district, county, or city attorney.

(b) Except as provided by Section 125.003(d), on a finding that a web address or computer network is a common nuisance, the sole remedy available is a judicial finding issued to the attorney general.

(c) The attorney general may:

(1) notify Internet service providers, search engine operators, browsing or hosting companies, or device manufacturers on which applications are hosted of the judicial finding issued to the attorney general under Subsection (b) to determine if the persons notified are able to offer technical assistance to the attorney general in a manner consistent with 47 U.S.C. Section 230; or

(2) post the judicial finding issued to the attorney

1 general under Subsection (b) on the attorney general's Internet
2 website.

3 SECTION 4. The heading to Section 125.002, Civil Practice
4 and Remedies Code, is amended to read as follows:

5 Sec. 125.002. SUIT TO ABATE CERTAIN COMMON NUISANCES
6 [~~NUISANCE~~]; BOND.

7 SECTION 5. Sections 125.002(a), (g), and (h), Civil
8 Practice and Remedies Code, are amended to read as follows:

9 (a) A suit to enjoin and abate a common nuisance described
10 by Section 125.0015(a) or (b) may be brought by an individual, by
11 the attorney general, or by a district, county, or city attorney.
12 The suit must be brought in the county in which it is alleged to
13 exist against the person who is maintaining or about to maintain the
14 nuisance. The suit must be brought in the name of the state if
15 brought by the attorney general or a district or county attorney, in
16 the name of the city if brought by a city attorney, or in the name of
17 the individual if brought by a private citizen. Verification of the
18 petition or proof of personal injury by the acts complained of need
19 not be shown. For purposes of this subsection, personal injury may
20 include economic or monetary loss.

21 (g) In an action brought under this chapter, other than an
22 action brought under Section 125.0025, the petitioner may file a
23 notice of lis pendens and a certified copy of an order of the court
24 in the office of the county clerk in each county in which the land is
25 located. The notice of lis pendens must conform to the requirements
26 of Section 12.007, Property Code, and constitutes notice as
27 provided by Section 13.004, Property Code. A certified copy of an

1 order of the court filed in the office of the county clerk
2 constitutes notice of the terms of the order and is binding on
3 subsequent purchasers and lienholders.

4 (h) A person who may bring a suit under Subsection (a)
5 [~~Section 125.0015~~] shall consider, among other factors, whether the
6 property owner, the owner's authorized representative, or the
7 operator or occupant of the business, dwelling, or other place
8 where the criminal acts occurred:

9 (1) promptly notifies the appropriate governmental
10 entity or the entity's law enforcement agency of the occurrence of
11 criminal acts on the property; and

12 (2) cooperates with the governmental entity's law
13 enforcement investigation of criminal acts occurring at the
14 property.

15 SECTION 6. This Act takes effect September 1, 2017.